IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

Con.Case(C).No. 883 of 2006(S)

AGAINST THE JUDGEMENT IN WPC.9857/2006 Dated 31/03/2006

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PETITIONER

Y.STEPHEN,
ASWATHY NIVAS, PERAIKONAM, VAZHICHAL,
OTTASHEKRAMANGALAM, THIRUVANANTHAPURAM.

BY ADV. SRI.BIJU BALAKRISHNAN

RESPONDENT:

T.LALITHA,
AGED NOT KNOWN, D/O.NOT KNOWN,
WORKING AS THE SECRETARY,
OTTASEKHARAMANGALAM GRAMA PANCHAYATH,
OTTASEKHARAMANGALAM.P.O,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.C.E.UNNIKRISHNAN

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

C.O.C.No.883 OF 2006

Dated this the 13th day of December, 2006

JUDGMENT

Ext.P4 in the writ petition contains two directions. The secretary of the Grama Panchayat was to consider the application of the petitioner for changing the name of the owner in the official records in relation to a building and to consider his request for licence for a flour mill. Stating that he has no statutory remedy for enforcement of Ext.P4 before the Tribunal, the petitioner filed W.P(C).9857/06 resulting in the issuance of a direction to comply with the order of the Tribunal. This Court would have been taking up the role of an executing court to see that the orders of the Tribunal led to the needed result.

2. It was after the institution of this contempt case that the application of the petitioner for changing of ownership of the building was taken up, considered and allowed by the respondent. He has filed an affidavit tendering apology for the delay.

3. In so far as the application for licence is concerned, the respondent came to the conclusion that the petitioner is not entitled to such relief. Learned counsel for the petitioner strenuously urges that the refusal to consider the application for licence is an attempt to override this Court, as also the Tribunal and is an exercise without any legal support. May be, it is also malafide. Yet, it is not within the province of this Court exercising power under the Contempt of Courts Act, 1971 to sit in appeal on the decision of the respondent refusing licence. That apart, the petitioner has efficacious alternate remedy within the framework of the relevant statute against the refusal to consider the application for licence.

In the result, this contempt case is disposed of in the following manner.

(i) The unconditional apology tendered in relation to the delay in obeying the direction to consider and dispose of the request of the petitioner for changing of ownership is accepted.

(ii) The correctness of the decision of the respondent on the application of the petitioner for licence is left open to be agitated before the appropriate authorities.

(iii) The contempt case, in view of the above, is closed.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.